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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92052698
Party	Defendant AmeriCareers, LLC
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Internet Employment Linkage, Inc. d/b/a HigherEdJobs Petitioner, Counterclaim Defendant and Applicant v. AmeriCareers LLC Registrant, Counterclaim Plaintiff and Opposer	Cancellation No.: <u>92052698</u> Registration No.: 3,666,461 Mark: HIGHER ED SPACE Registered on: August 11, 2009 Registered by: AmeriCareers LLC Counterclaim Petition to Cancel Registration Nos.: 2688003 and 2781127 Marks: HigherEdJobs.com (Registration No. 2,688,003) issued on: Feb. 18, 2003 HigherEdJobs.com (Registration No. 2,781,127) issued on: Nov. 11, 2003. Registered by: Internet Employment Linkage, Inc. Opposition No.: <u>91198027</u> Application Serial Nos.: 77950843 and 77950871 Marks: HigherEdJobs (Serial No. 77950843) filed March 4, 2010 HigherEdJobs (Serial No. 77950871) filed March 4, 2010 Applicant: Internet Employment Linkage, Inc.
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MOTION TO CONSOLIDATE

Registrant / Counterclaim Plaintiff / Opposer, AmeriCareers LLC, hereby requests the Board to consolidate the above-referenced cancellation and opposition proceedings (Proceeding Nos. 92052698 and 91198027), pursuant to TBMP Section 511 and Federal Rule of Civil Procedure 42(a).

I. Background

Registrant / Counterclaim Plaintiff / Opposer, AmeriCareers LLC (“AmeriCareers LLC”), and Petitioner / Counterclaim Defendant / Applicant, Internet Employment Linkage, Inc., d/b/a HigherEdJobs (“IEL”), are currently parties to cancellation proceeding (Proceeding No. 92052698) and opposition proceeding (Proceeding No. 91198027).

On July 6, 2010, IEL filed a Petition to Cancel AmeriCareers LLC’s Trademark “HIGHER ED SPACE” (Reg. No. 3666461) on the grounds of likelihood of confusion and fraud. On August 31, 2010, AmeriCareers LLC filed a counterclaim petition (amended on October 18, 2010) to cancel IEL’s marks “HigherEdJobs.com” (Reg. Nos. 2688003 and 2781127) on the ground of genericness. Discovery is currently in progress in this cancellation proceeding (Proceeding No. 92052698).

On December 29, 2010, AmeriCareers LLC filed a Notice of Opposition to request the Board to deny registrations of IEL’s applied-for marks “HigherEdJobs” (Application Serial Nos. 77950843 and 77950871) on the grounds of merely descriptiveness, lack of distinctiveness and genericness. Discovery will start March 9, 2011 in this opposition proceeding (Proceeding No. 91198027).

II. The Circumstances Warrant Consolidation of the Two Proceedings

Consolidation of Cancellation No. 92052698 with Opposition No. 91198027 is appropriate because both proceedings involve the same parties and common questions of law and fact. Such consolidation will save time, effort and expense, and avoid

unnecessary duplication of effort and paperwork. Consolidation will not prejudice or inconvenience either party. See TBMP 511; Fed. R. Civ. P. 42(a).

Consolidating these two proceedings will significantly save resources for both the Board and the parties. The underlying facts and claims involved are substantially identical. If these two proceedings are not consolidated, two interlocutory attorneys within the TTAB will have to commit substantial time and resources to evaluate and determine substantially identical legal issues in the context of common facts for the same parties; and the two parties will also have to duplicate their efforts and paperwork. Consolidation is provided for under the Federal Rules and TBMP to prevent such duplication of effort and inefficiency.

Furthermore, no undue prejudice or inconvenience will result from this consolidation to either party. The Discovery in the cancellation proceeding is still in its early stage and Discovery in the opposition proceeding starts March 9, 2010 and will soon overlap with the cancellation proceeding.

III. Reset Dates Based on the Senior Proceeding

Since both parties already start working on Discovery in the cancellation proceeding, AmeriCareers LLC proposes to reset the dates for the consolidated case based on the dates in the cancellation proceeding (the senior case) so progress can continue to advance as currently scheduled.

IV. Conclusion

For the foregoing reasons, AmeriCareers LLC respectfully requests that the Board consolidate the above-referenced proceedings.

Respectfully submitted,

Dated: March 2, 2011

AmeriCareers LLC

By: /Dan Ouyang/

Dan Ouyang, Ph.D.

President

AmeriCareers LLC

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CERTIFICATION OF SERVICE

I hereby certify that a true and correct copy of the foregoing document is being deposited with the United States Postal Service with sufficient postage as first class mail, on the date set forth below in an envelope addressed to ELIZABETH R. BURKHARD, HOLLAND & KNIGHT LLP, 10 ST. JAMES AVENUE, 11TH FLOOR, BOSTON, MA 02116

Date: March 2, 2011

/Dan Ouyang/

Dan Ouyang